

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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BARON MONTERO JONES,

Case No. 16-cv-3288 (JNE/TNL)

Plaintiff,

v.

**REPORT AND  
RECOMMENDATION**

TARA FERGUSON-LOPEZ, ASSISTANT  
HENNEPIN COUNTY ATTORNEY (personal  
capacity),  
KATHRYN QUAINANCE, FOURTH  
JUDICIAL DISTRICT COURT JUDGE  
(personal capacity),  
STATE OF MINNESOTA (personal capacity),

Defendants.

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Plaintiff Baron Montero Jones commenced this action by filing a complaint seeking relief under 42 U.S.C. § 1983. (ECF No. 1). Jones did not pay the required filing fee for this case, but instead filed an application seeking leave to proceed *in forma pauperis* (“IFP”). (See ECF No. 2). In an order dated November 23, 2016, this Court required Jones to pay an initial partial filing fee of \$3.11 before his case could proceed. (ECF No. 4). Jones was given until 20 days from the date of the order to pay, or on or about December 14, 2016, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

The deadline has now passed, and although Jones filed an amended complaint (ECF No. 5),<sup>1</sup> he has not paid the required filing fee. Accordingly, this Court now recommends, in

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<sup>1</sup> Plaintiff’s Amended Complaint does not alter his lawsuit, but instead he “correct[ed] date and times of initial violations and . . . add[ed] additional factual violations including Defendants.” (ECF No. 5, at 1). Neither Plaintiff’s Amended Complaint nor the attached cover letter respond whatsoever to this Court’s November 23, 2016 Order.

accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. Appx. 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

### **RECOMMENDATION**

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute and that Plaintiff’s IFP Application, (ECF No. 2), be **DENIED AS MOOT**.

Date: December 27, 2016

s/ Tony N. Leung  
TONY N. LEUNG  
United States Magistrate Judge  
District of Minnesota

*Jones v. Ferguson-Lopez et al.*  
Case No. 16-cv-3288 (JNE/TNL)

### **NOTICE**

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in LR 72.2(c).

**Under Advisement Date:** This Report and Recommendation will be considered under advisement 14 days from the date of its filing. If timely objections are filed, this Report and Recommendation will be considered under advisement from the earlier of: (1) 14 days after the objections are filed; or (2) from the date a timely response is filed.